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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,898	10/24/2000	Donald F. Gordon	SEDN/175	3377
56015 7590 10/22/2007 PATTERSON & SHERIDAN, LLP/ SEDNA PATENT SERVICES, LLC 595 SHREWSBURY AVENUE SUITE 100 SHREWSBURY, NJ 07702			EXAMINER LEE, Y YOUNG	
			ART UNIT 2621	PAPER NUMBER
			MAIL DATE 10/22/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/695,898

**Applicant(s)**

GORDON, DONALD F.

**Examiner**

Y. Lee

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,7-15,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7-15,17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. In view of the appeal brief filed on 7/31/07, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.


To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Mehrdad Dastouri.

  
MEHRDAD DASTOURI  
SUPERVISORY PATENT EXAMINER  
TC 2600

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the last office action is vacated.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5, 7-15, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang et al (6,005,620) in view of Egawa et al (5,534,944).

Yang et al, in Figure 4, discloses a statistical multiplexer for live and pre-compressed video that is substantially the same system and method as specified in claims 1, 2, 5, 7-15, 17, and 18 of the present invention, comprising receiving a first compressed video stream 30; determining a first encoding profile (e.g. 40, 42) for the first compressed video stream 30; encoding a second video stream 32 in accordance with an encoding parameter 44 associated with the first compressed video stream 30 to generate a second compressed video stream 52 having a second encoding profile which matches the first encoding profile to within a requisite degree, wherein a profiler 42 continuously tracks the encoding parameter 44 associated with the first compressed video stream 30 for instant parameter changes; splicing the second compressed video stream 52 into the first compressed video stream 30 to produce a spliced stream 34, wherein the encoding of the second video 32 is controlled (e.g. 34, 42) such that the second encoding profile approximately matches the first encoding profile at approximately a point in time when the second compressed video stream 32 is spliced into the first compressed video stream 30, wherein the encoding of the second video 32 is further controlled such that the second encoding profile 52 approximately matches the first encoding profile at approximately a point in time (e.g. 40) when the first compressed video stream 30 is spliced back into the spliced stream 34.

Although Yang et al discloses profile matching during splicing of various compressed and non-compressed video streams, it is noted Yang et al differs from the present invention in that it fails to particularly disclose any details of the requisite degree of matching as specified in claims 1, 2, 5, 7-15, 17, and 18. Egawa et al however, in Figures 2-4 and 7, teaches the concept of such well known degree of matching between the second encoding profile (e.g. AU2) and the first encoding profile (e.g. AU1) is selected such that the spliced video stream can be decoded without producing visible artifacts on a display during or after a transition from a first compressed video stream portion of the spliced stream to a second compressed video stream portion of the spliced stream (e.g. Fig. 7C).

With respect to claims 2, 5, 7-15, 17, and 18, although Yang et al also discloses initiating the encoding of the second video stream 52 in response to receiving the control signal 56, it is noted Yang et al fails to particularly disclose any details of the splicing process. Egawa et al, however, teaches the well known steps of determining the second encoding profile for the second compressed video stream AU2; wherein splicing includes initially multiplexing the first compressed video stream as an output video stream 110; multiplexing the second compressed video stream 112 as the output video stream at a point in time 118 when the inserting is to be achieved; and splicing the second compressed video stream 112 to the first compressed video stream 110; receiving a control signal indicative of a time period (e.g. time stamp) within which the splicing is to be performed; buffering the second compressed video stream (e.g. Fig. 2B and 3B) prior to splicing 410; wherein the second video relates to an advertisement and

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the first compressed video stream relates to a program video (e.g. HDTV); wherein the first encoding profile includes bit rate information related to the first compressed video stream, including a high bit rate (e.g.  $R_{max}$ ), a low bit rate (e.g. 0), and a mean bit rate (e.g. average) determined over a particular time period; video buffering verifier (VBV) buffer information used for the encoding; wherein the second video is encoded in accordance with an MPEG encoding scheme.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, having both the references of Yang et al and Egawa et al before him/her, to exploit the well known splicing technique as taught by Egawa et al in the video memory of Yang et al in order to ensure that an input buffer of the MPEG decoder does not overflow after receiving the spliced video signals.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y. Lee whose telephone number is (571) 272-7334. The examiner can normally be reached on (571) 272-7334.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Y. Lee  
Primary Examiner  
Art Unit 2621

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